

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

EDUARDO BARRERA,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

CASE NO.: 1D06-6720

FLORIDA PAROLE
COMMISSION,

Appellee.

_____ /

Opinion filed August 12, 2008.

An appeal from the Circuit Court for Leon County.
Janet E. Ferris, Judge.

Eduardo Barrera, pro se, Appellant.

Kim Fluharty, General Counsel, and Sarah J. Rumph, Assistant General Counsel,
Tallahassee, for Appellee.

PER CURIAM.

Appellant appeals the circuit court's order denying his petition for writ of mandamus as time-barred under section 95.11(5)(f), Florida Statutes (2005). In his petition, appellant contended that the Florida Parole Commission erroneously revoked

his conditional release without finding that his violation was a willful violation of a substantial condition of the conditional release order, see Williams v. Florida Parole Commission, 954 So. 2d 1271 (Fla. 1st DCA 2007), and therefore he was entitled to be reinstated to conditional release. We conclude that the circuit court should have treated the petition for writ of mandamus as a petition for writ of habeas corpus, see Rowe v. State, 765 So. 2d 94 (Fla. 1st DCA 2000), and thus it was erroneous to deny the petition as time-barred. Martin v. Fla. Parole Comm'n, 951 So. 2d 84 (Fla. 1st DCA 2007).

REVERSED and REMANDED for further proceedings.

WEBSTER, VAN NORTWICK, AND THOMAS, JJ., CONCUR.